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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/732,821 | 12/10/2003 | Richard J. Hantke | KCX-772 (20000) | 6793 |
| 22827 | 7590 | 04/17/2006 | EXAMINER | |
| DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449 | | | HAND, MELANIE JO | |
| | | | ART UNIT | PAPER NUMBER |

3761

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/732,821

Applicant(s)

HANTKE ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-15, 17-19 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-15, 17-19 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed January 30, 2006, with respect to the rejection of claims 6 and 10 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection of claims 6 and 10 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Applicant's arguments with respect to claims 1-3, 7-9, 11-15, 17-19 and 24-30 have been considered but are moot in view of new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 7-9, 11-15, 17-19 and 24-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Mizutani et al (U.S. Patent No. 6,500,160).

With respect to **Claims 1, 11, 12, 15, 17, 21, 24-26, 28 and 29**: Mizutani teaches package 1 comprised of packaging member 10 and sanitary napkin 2. (Fig. 1) (Col. 8, lines 62-65) Mizutani teaches that front portion 2c of package 10 is folded back onto central portion 2b and then rear portion 2d is folded over front portion 2c so as to overlay portion 2c, at which point confronting faces of each side region 10d are fused to form sealed portions 25 and the adhesive portion of tape tab 23 attached to opening flap 10c is adhered to face 10b of package member 10. (Fig. 2)

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(Col. 10, lines 3-16) Mizutani teaches that package member 10 is a laminate composite nonwoven fabric. (Col. 5, lines 26,27) Mizutani teaches that the fused faces of packaging material 10 are peeled from one another at sealed portions 25 for opening and resealing upon disposal. (Col. 10, lines 64,65) Mizutani teaches that the peel strength between the adhesive disposed on packaging member 10 and release sheets 21 and 22 is between 490 and 3920 mN/cm² (Col. 8, lines 62-65), or between 4.08 and 39.2 mgf, and a decibel level upon unsealing of portions 25 of 55 db. (Col. 12, line 1). Examiner is concluding that the peel strength between lateral side edges in portions 25 upon unsealing is at least as great as the peel strength between said edges and said release sheets owing to the absence of adhesive on release sheets 21 and 22.

With respect to **Claim 2**: As stated with respect to Claim 1, Mizutani teaches sealed portions 25 wherein confronting lateral edges are sealed together.

With respect to **Claims 3, 27**: As stated with respect to Claim 1, Mizutani teaches tape tab 23 with faces 23a and 23b extending from edge 10c, wherein 23a is adhered to portion 10b and 23b protruding from end edge 10c is coated so as to be releasably attachable to opening flap 2c. (Col. 8, line 66, 67, Col. 9, lines 1-9).

With respect to **Claim 7**: As stated with respect to Claim 1, packaging material 10 is comprised of a composite nonwoven wherein the inner face layer 12, outer face layer 13 and intermediate layer 11 are all comprised of various nonwoven films. When packaging member 10 is folded into the pouch formation, the inner face layer 12 forms an interior of package member 10 and the outer nonwoven face layer 13 will still be exposed. Although nonwovens are substantially liquid-

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impermeable, they are also substantially vapor permeable. Edge portions 10d taught by Mizutani are comprised of all layers of the composite laminate nonwoven.

With respect to **Claim 8**: Please see the rejection of claims 4 and 5 above. Since Mizutani teaches a laminate and does not explicitly teach differing dimensions for each of layers 11, 12 and 13, Examiner is concluding that the length of inner layer 12 is equal to the length of outer layer 13.

With respect to **Claim 9**: Mizutani teaches that the laminate nonwoven material 10 is highly resistant to water-permeation. (Col. 5, lines 30-33).

With respect to **Claim 13**: Referring to Fig. 1, Mizutani teaches fold axes that are viewed upon folding of portions 2c and 2d toward the opposing fold axis.

With respect to **Claim 14**: Mizutani teaches edge 10c of portion 2c that is unsealed except for the portions which are lateral edges that are sealed at regions 25. (Fig. 2)

With respect to **Claim 18**: Mizutani teaches that edge portions 10d are sealed using a heat roll. (Col. 10, lines 13-16).

With respect to **Claim 19**: Sealed portions 25 are present on both lateral sides of package 10 when in folded position.

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With respect to **Claim 30**: Each lateral side 10d of packaging material 10 defines sealing regions 25.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani ('160) in view of Luizzi et al (U.S. Patent Application Publication No. 2003/0199842).

With respect to **Claims 6,10**: Mizutani does not teach a vapor permeable film sheet. Luizzi teaches an absorbent article having a tape tab at one longitudinal end for retaining a soiled article in a folded configuration. The article is comprised of a backsheet of nonwoven material and a cover sheet comprised of a porous (i.e. vapor permeable) or nonporous nonwoven film. ('842, ¶0032) Therefore Luizzi teaches that a porous film may be substituted for a regular nonwoven, and a porous film by its nature possesses a pattern of holes. In the instant case substitution of equivalent methods requires no express motivation, as long as the prior art recognizes equivalency, *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 85 USPQ 328 (USSC 1950).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

